Supreme Court, U.S.
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No. 88-1340

IN THE

Supreme Court of the United States

OCTOBER TERM 1988

CHARLES F. WISHART,
and BOBBIE S. WISHART,
Appellants,
vs.
LESLIE M. BATES,
and, RANDALL A. BATES,
Appellees,

APPEAL FROM THE SUPREME COURT
OF THE STATE OF FLORIDA

REPLY BRIEF

CHARLES F. WISHART, Esquire,
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and,
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Appellants appear pro se.

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REPLY BRIEF

PARTIES:

The parties are the WISHARTS CHARLES and BOBBIE, RANDY, LESLIE, and in fact TIFFANY.

PLEADING FORMAT:

LESLIE'S "Motion to Dismiss" shall be double indented, bolded and then answered by enfolding it into this brief with line by line comment as needed.

CITATIONS:

To contend with the courts which did not follow the rules but invented facts not true and certainly not in the record, the WISHARTS have been compelled to build a record on the run, to answer and refute lies fomented by certain trial and appellate judges in the Hillsborough County Court House coffee shop.

To this end WISHART has prepared such a system in their appendix at pages A-1 to A-19 as would facilitate citing and location of the records cited.

ANSWER TO LESLIE'S "MOTION TO DISMISS"

LESLIE'S "Motion to Dismiss begins:

MOTION TO DISMISS

Appellee, Leslie Bates (Boggs) respectfully moves pursuant to R. 16 (1)(b) and (d) to dismiss this appeal because no federal question was raised below and there has been no decision against the validity of a federal law, the questions ressented affect only the immediate litigants and do

not pertain to matters of public concern, and the issues presented do not raise substantial federal question (sic) meriting review by this court.

This matter was raised by appeal, a denial of the rights guaranteed by treaty under 28 U.S.C. § 1257(1).

The Supreme Courts of both Florida and the United States hold the Christian Ethic underlies our laws and must be adhered to, but the deterioration of our moral values practiced in our communities is well known, raising the question as to whether the courts shall maintain a high moral value or follow the crowd.

Courts function as the antithesis of politics, the guardians of our morality, limiters of social excesses, following the principles stated in *State ex rel. Singleton v. Woodruff*, 13 So.2d 704, at 705 (Fla. 1943).

WISHARTS' mini "Brandeis Brief" shall consist of the record of this 1983 case, their experience as parties, and CHARLES as an attorney, the article entitled "Family Law judicial System, Indictment from Within", The Fla. Bar Jour. Vol. LXI, No. 10, Nov. 1987, at page 11, which was written by a family law section officer, and a family law judge, after making a statewide survey which is no doubt representative of our nation, which explains much of what is happening in our streets; when the church goes, the family goes, and when the family goes the nation, and the Courts cannot be far behind.

While the article speaks of specialization and better administration as the solution; WISHART suggests a nationwide revival beginning with the courts as the real solution if there is to be one.

The article found everyone disgruntled with the system, two of which represented in turn, RANDY, in mid 1983, to the middle of 1984.

Ken Dandar never came back except once to aid a person who was dying.

Tom Fay left not only the family law practice, but also the practice of law for Oral Roberts University to train as a counselor to set up an alternative program to fill the void the courts created, to reconcile families as Section 61.001, Fla. Stat. (1983) was intended, to reverse the automatic divorce of *Riley v. Riley*, 271 So.2d 181 (Fla. 1st DCA 1972) and to restore the clean hands doctrine which *Johnson v. Johnson*, 284 So.2d 231 (Fla. 2d DCA 1973) abolished.

The WISHARTS, happily are Christians as are Dandar and Fay, CHARLES is a minister, who cannot see the eroding of our Christian values and not act.

LESLIE, TIFFANY and the WISHARTS are victims.

The issues that " . . . do not pertain to matters of public concern . . . ." are the drugs, aids, killing, sexual promiscuity, the overcrowded jails, signs that are reflected by our attorneys who say about the family law system, "It is wrong but there is nothing you can do about it."

CITATIONS TO OPINIONS BELOW

The test of opinions, Judgements and Orders below are contained in the appellants and/or Appellees Jurisdictional (sic) Statements.

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Leslie intended her "Motion to Dismiss".

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Each treaty guaranteed freedom of their religion, but the first was unique as it secures free exercise "without any restriction . . . ."!

> Such a right holds the Holy Bible, in the hands of a man led by God, to be a closed system which completely balances itself, with the man subject to God's chastisement and protection.

Having for 19 years field tested the Bible, with the end of proving it, and learning to make it work, CHARLES will certify that the word is true, it works, and what God says he brings to pass, on people and on nations, for good and for evil, but always justly.

On the other hand, our new social systems, predominantly based upon the study of the soul, thus called psychiatry, are based on a finite presumption that denies that man has a spirit as well as a soul, and being ignorant of that fact, much less having a personal relationship with the God of the Bible, they deny what they cannot understand, (or rather control) and have devised a maxim that makes them lord:

We cannot make moral judgements, for that would be making a moral judgement in violation of the Constitutional separation of Church and State.

With no moral values, or rather a specific system of moral values, or in this country the Christian System of Ethics underlying our laws, there is no law.

Of such is the outrage over abortion, and the violence in our streets, children with no working knowledge of why they should be good and not bad.

Psychiatry which does not believe in the biblical concept of sin, nor the existence of demons (which would require an acceptance of the spirit world), no sin needs no forgiveness, and patients are taught to live with their demons rather than cast them out.

The paramount issues is a childs best interests as protected by Florida Statute 61.13 and the Uniform Child Custody Jurisdiction Act.

o

Carole Priede, then Sr. Counselor, Juvenile Court, wrote an opinion to Judge Menendez 5 days before the "Final Hearing" was to start.

It was a part of the the record on appeal in *Wishart v. Bates*, 2d DCA Case No. 85-1128 (FSC-AIV: p. 748), Petitioner's (LESLIE'S) Exhibit #2, Composite of Documents, which included Priede's "Custody Investigation Report", filed Jan 7, 1985, and comprising (pp. 571-575), with attached documents (pp. 576-597).

Excerpts of the report are reproduced in A-20.

From those excerpts it is clear that the immoral conduct of LESLIE and her family could never be enough to prevent the Court from taking TIFFANY from the WISHARTS and giving her to LESLIE.

Carole Priede and those like her will not make moral judgements although that is far more important than the medical neglect which Drs. Hough, Lipschutz (HRS'S doctor), Hillseth, (FSC-AII: pp. 210-210) and Hedrick (FSC-AII: pp. 295-303) found to be neglect.

In a simpler time perhaps, wisdom was found when in *Watson v. State*, 194 So.2d 640, 642 (Fla. 1940) Justice Chapman reflected in a cohabiting case:

> It does appear reasonable to assume that from these facts the jury would be justified in finding that the parties had: (a) the ability; (b) the opportunity; and (c) the inclination, and when these three uncontroverted facts appear, as shown by the record, it is safe to conclude that the parties had intercourse, i. e., when the ability, opportunity and inclination of the parties is by the evidence fully established, it may be assumed as a matter of law that the act has been accomplished.

Of course without knowledge of the Bible the reason for protecting virginity and marital fidelity is unknown, but the Holy Bible reflects in 1 Cor. 6: 15-16 that God created men and women to bond for life.

Note that Section 61.13 Florida Statutes (1983) has has a subsection (3)(c) and (f) which are particularly pertinent in that when considering the best interest of TIFFANY, LESLIE'S lack of capacity and inclination to provide her with medical care is a factor against her, as is the latter section (3)(f) which questions LESLIE'S moral fitness to raise TIFFANY.

STATEMENT OF THE CASE AND FACTS

In 1983 the Wisharts abducted Tiffany, and re-"refused" to return her to either of her natural parents.

In a legal effort to get Tiffany back, Leslie filed for divorce and custody of of (sic) Tiffany, in Bates v. Wishart, 13 Jud. Cir., Case No. 83-7250. (Listed in the Wisharts Table of Authorities as Case No. 83-7240)

Here we have to point out a small character flaw in LESLIE, she can't tell the truth from a lie, and might well be subject to expulsion from the courts under *P_____ D_____ v. _____ C_____ S_____*, 304 S.W.ed 437 444 (Mo. Springfield C.A. 1965), or she at least might be found morally unfit due to perjury.

Previously, CHARLES prepared an affadavit which chronocles much of what LESLIE did during 1983, and why, so, for brevity that document will be cited as CHARLES' "Affadavit" hereafter. (FSC-AI: pp. 34-51)

What LESLIE said above is not true as the affadavit shows.

The Wisharts were enjoined because they illegally withheld a child from its natural parents, which did not give them legal standing as "Contestants".

WISHART never lost guardianship status over TIFFANY, but they have repeatedly lost physical control.

In this case surgery was scheduled due to an erroneous diagnosis of a chronic medical problem that was really only chronic neglect by LESLIE.

WISHART received TIFFANY from RANDY found her ill, as was common after LESLIE had her, and kept her as was their prior practice to cure her.

The legal standing came as LESLIE knows from Section 61.131, Fla. Stats. (1983). (FSC-AIII: p. 503)

The Wisharts deliberately caused the the (sic) final hearing to be delayed until December 1984, at which time Leslie was granted custody of Tiffany.

LESLIE fired her attorney John Hoft and his replacement Paul Tabio took some time.

The Wisharts refused to accept either the divorce or the custody decision, and appealed in Wishart v. Bates, 487 So.2d 342 (Fla. 2d DCA 1986) (DCA No. 85-1128).

The marriage could have been saved but for the interference and hatred from LESLIE'S mother.

It is after all difficult to have a minister in the family when the mother is living with a man without a marriage license.

The custody decision was revesed by the *Wishart v. Bates, Id.*, at 5.

In deliberate defiance of court orders, Florida Statute 61.13, the Uniform Child Custody Jurisdiction Act, the Clean Hands Doctrine, Christian Ethical Values, and the Disciplinary Rules of the Florida Bar Association, they resorted to absconding with Tiffany.

The final judgement was void ab-initio, pursuant to Rule 1.440, Fla. R. Civ. P., the grounds WISHART reversed the "Judgement" on, it was unrendered pursuant to Rule 9.020(g), Fla. R. App. P., but was being enforced by a "Writ of Habeas Corpus" with no return or rule to show cause (FSC-AII: p. 352), TIFFANY was sick again and needed the protection and care of the WISHARTS (FSC-AII: pp. 354-360), CHARLES appearance before the court was to no avail, a hearing was denied until they obeyed all of those void and unenforceable "orders" (FSC-AIII: pp. 445-463), and it took nearly 50 days to go through the 2d DCA, the Florida Supreme Court, and the Federal District

Court, Tampa (FSC-AIII: p. 584), in order to force the courts doors back open, after a night in jail (FSC-AII: pp. 369-407) after LESLIE'S attorney Paul Tabio told Judge V. Evans WISHARTS' motions were disposed of (FSC-AII: p. 381 l. 23 - p. 382 l. 15, and p. 384 l. 22 - p. 385 l. 2) at which time CHARLES prevailed by being released from jail since the judgement was not rendered and could not be enforced, and by causing thereafter Judge Menendez to render it (FSC-AIII: pp: 408-411) and then by voiding it (FSC-AII: p. 219).

Trials held in violation of the rules of procedure need not be obeyed *Johnson et al. v. McKinnon*, 54 Fla. 221, 45 So. 23 (1907) for they are void.

After Tiffany was found and returned to LESlie, the harassment continued with motions and hearings without end, and visitation was cancelled because no mother should have to live in constant fear of her child being abducted.

Very dramatic, but not true, TIFFANY was rereturned after Judge Menendez "rendered" his judgement and WISHART appealed and reversed it.

That very judgement gave BOBBIE visitation (FSC-AII: p. 216 ¶ 13.), which was modified by Judge Hodges to include CHARLES (FSC-AIV: pp. 755-757).

The WISHARTS' motions were for contempt, since LESLIE would not give them the visitation, much less the legal guardianship status they were entitled to.

TIFFANY was never found since she was with the WISHARTS lawfully, and it was WISHARTS that were being hurt and violated.

The Wisharts conduct still involves dishonesty, fraud, deceit, and misrepresentation, that is prejudicial to the administration of justice.

This brief reflects who is careless with the facts and long on the allegations and smears.

> By complaint, as instituted by Leslie, the Florida Bar Association has administered its own hearing and investigations into the misconduct of Charles Wishart. Their conclusion disclosed violations of eight Disciplinary Rules in conjunction with this litigation, TFB No. 13c85 100). Proceedings on their reccommendation for disbarrment (sic) are pending in the Florida Supreme Court. (FSC No. 70,584)

LESLIE complained, the Greivance committee found probable cause by refusing the allow CHARLES to go behind the order and judgement to show they were void ab-initio, and that the first had been voided by Judge Knowles who rendered it, while the Second District Court of Appeal, Case No. 85-1128 reversed the latter.

At trial, before the Honorable Judge Norris, WISHART presented as evidence the matters found in his 5 volume appendix (FBA-A).

One of the more outrageous events was that when CHARLES was charged with writing letters to Judge Knowles (actually CHARLES was responding to letters from Judge Knowles and John Hoft), CHARLES pointed out that DR 7-110 allowed such correspondence so long as it was:

> (3) In writing if he promptly delivers a copy of the writing to opposing counsel . . . .

CHARLES objected to a charge that the letters were ex-parte for copies had been sent to John Hoft.

The bar struck through the ex-parte portion and made it a violation of ethics to write a letter to a judge, with or without service on opposion counsel, and contrary to DR 7-110(B)(2).

Then without evidence or law Judge Norris found CHARLES guilty of all charges, the Bar recommended disbarment, and CHARLES concurred if his license would not allow him to compel the courts to follow the law, for if not the license had no value to him.

The Florida Bar Board of Governors, who would not talk with CHARLES, nevertheless recommended a three year suspension rather than disbarment which CHARLES categorically rejected since they did not know the facts, and CHARLES, having done no wrong, would not be able to show remorse to such a group, and an honorable disbarment from a system that did not follow its own rules and law looks attractive.

On appeal, CHARLES again rejected suspension, and set forth the law in the same detail as this brief, an perhaps more, showing there was no substance to Judge Norris' "Report of Referee" in his "Answer and Cross-Appellant Brief" (FBA-AB[9]: pp. i-viii, 1-65)

The Florida Bar'S "Complaintant's Answer and Reply Brief" (FBA-RB[11]: pp. i-iii, and 1-3) said in their third and last paragraph:

> The Bar finds it imposible to respond any further to the rambling arguments of the respondents 361 paragraph, 65 page Answer and Cross-Appellant Brief.

For their arrogance and violation of the rule that required them to respond, noting the rambling was the path Judge Norris took in his "Referee"s report" just as WISHART now follows LESLIE'S brief, CHARLES filed his "Motion to Strike and to Dismiss Complainant's Answer and Reply Brief and for other sanctions" (FBA-MS[12]: pp. 1-6)

Oral argument was held on February 8, 1989.

The Bar never had law or facts to contradict that presented by WISHART, but as was promised, this is a political case wherein WISHART is to taught where the power lies.

Pursuant to Wishart v. Bates, 487 So. 2d 342 (Fla. 2d DCA 1986), (DCA Case No. 85-1128) the appellate court granted the Wisharts "further hearing" on their petition for custody, but the Final Judgement was neither voided nor reversed.

LESLIE understands that the *Wishart v. Bates*, opinion was a grant of a further hearing, a rehearing if you would, and that fact manifest on the face of the "Final Judgement" means that WISHART was entitled to be restored to their guardian status, and that the *Bates v. Wishart*, 512 So.2d 977 (Fla. 2d DCA 1987) opinion based on false information, must be reversed, and with it the *Wishart v. Bates*, 531 So.2d 955 (Fla. 1988), for the WISHARTS had participated in the "final hearing" and having reversed the judgement before the first panel, are entitled to be restored to their prior status before facing any other litigation that is based upon the legitimacy of the Menendez "Judgement". (FSC-AII: pp. 211-218)

The Wisharts continued to file motions and set hearings based on their erroneous claim that they

had custody of Tiffany, but continued to delay the "further hearing" obtained in DCA No. 85-1128.

A void judgement can be attacked forever and wherever it appears.

At the same time. LESLIE admits the WISHARTS were not even getting the visitation given as an alternative to the custody that was denied them.

Therefore they could not obtain fresh evidence and it would appear unjust to deprive them of their guardian status, keep them from their visitation, and then after two years without seeing TIFFANY putting the matter to trial, but that is what happened.

Because the Wisharts continue to misrepresent that they had custody, the appellate court clarified that the final judgement was neither reversed nor voided, that Leslie still had custody of Tiffany, and the Wisharts had merely been granted "further hearing" on their petition for custody.

WISHART began with physical custody and a letletter of guardianship pursuant to Section 39.01(27) (FSC-AIII: p. 510-512) as LESLIE well knows.

Wishart v. Bates, Id., at 5, specifically "reversed" the judgement and the meaning of the word means to void it as says Black's Law Dictionary, 4th Ed. pg. 1482, and in accord *Securities and Exchange Commission v. C. M. Joiner Leasing Corp., et al.*, 53 Fed. Supp. 714 (U.S. Dist. Ct. N.D. Texas 1944).

The Wisharts havekept this litigation ongoing since 1983 although thus case file substantiates that Leslie is and always has been a fit and proper parent.

Why then was TIFFANY always sick in 1983 and well in 1984 when the WISHARTS had her care, and why wasn't the sugery performed if not because having kept her the WISHARTS got and kept her well throughout 1984.

The hostility between the Wisharts and Leslie should have been sufficient cause for each of the long succession of judges to eliminate visitation and cease this litigation.

One of the elements in Section 61.13, Fla. Stats. (1983) was subsections (3)(a) and (3)(b) which require:

(a) The parent who is more likely to allow the child frequent and continuing contact with the nonresidential parent.

(b) The love, afection, and other emotional ties existing between the parents and the child.

LESLIE has cut off the WISHARTS but also RANDY from any and all contact with her for years.

Richard Larry Boggs (BOGGS), her present husband, threatened RANDY with violence, attacked BOBBIE with an axe handle, and attacked CHARLES during a lawful visitation at LESLIE'S trailer and then jerked TIFFANY from LESLIE'S arms violently, and out of the WISHART home, where he was under orders to stay away from, all with LESLIE'S complicity and consent.

Once LESLIE told her then live in boyfriend, who was awaiting trial as a child molester, Lam Ray Yarborough, when he inquired as to what the WISHARTS would do if he appeared at their door she said:

Their home is open and they will let you in.

Thereafter he appeared at 3:00 A.M. and indeed was received with cordiality as she had said.

The hostility is from LESLIE'S side, and that be-being in fact admitted in her brief.

She has often used her own wrongdoing as grounds to cut WISHART and RANDY off from TIFFANY.

Litigation has been further intricated and entricated by the Wisharts "suits" against everyone they have involved including attorneys, doctors, H.R.S. personnel, and the judges.

The record speaks for itself, and would show what and for what reason various legal actions were taken.

When you are responsible for a child that is in hazard of unnecessary surgery is a system that cannot or will not respond timely what is to be done?

In brief, due to the duration and complexity of this litigation, in conjunction with the long succession of judges, all accomoplishments of the Wisharts, visitation has been granted, altered, and ultimately denied.

In fact that is true, but in law the WISHARTS have never been lost their visitation, but the judges will not enforce what they have, save that *Wishart v. Bates, Id.* at 12, restored an illegal visitation.

Judge Peter J. T. Taylor's "Order Disqualifying Charles F. Wishart as Attorney of Record for Bobbie Sue Wishart", dated August 2, 1986, has not deterred him from constantly filing motions.

The WISHARTS are parties to this suit.

Nevertheless, it was none of LESLIE'S business to object that CHARLES was acting as attorney so long as BOBBIE does not object.

Her obvious motive was to cut CHARLES out and leave BOBBIE helpless, and that is not the purpose of the rules that allow such representation.

At a procedural hearing prior to the conclusion of the "further hearing" by Judge Evans, a trial judge granted visitation and appellate costs to the Wisharts. Leslie appealed in Bates v. Wishart, 512 So. 2d 977 (Fla. 2d DCA 1987), (DCA No. 86-2408) because visitation was granted at a procedural hearing of legal argument only with no evidence being heard as to Tiffanys best interests, and because the Wisharts were not entitled to appellate costs because the Final Judgement was neither reversed nor voided by the first panel in DCA No. 85-1128.

The final judgement was reversed, the appellate costs were a consequence of that reversal, even if the WISHARTS only got a rehearing.

The law cited was argued before Judge Taylor, and everywhere else the matter arose, for the visitation was void for WISHARTS' reasons used by LESLIE, but, LESLIE has at each point ignored the visitation Judge Menendez gave through that "final Judgement" which if it is valid, then also the visitation, and further, that same visitation was modified by Judge Hodges to include CHARLES (FSC-AIV: pp. 755-757).

Further, LESLIE has willfully and intentionally refused and failed to tell the courts that WISHART had

been granted visitation before Judge Taylor's, namely from Judge Menendez' "Final Judgement" to BOBBIE and then from Judge Hodges (FSC-AIV: pp. 755-757) so that Judge Taylor changed nothing.

In DCA No. 86-2408, the second panel reversed the award of appellate costs because the first panel neither reversed nor voided the Final Judgement in DCA No. 85-1128.

Reversed voids the judgement, and is the equivalent of voiding the judgement with no more qualifiers.

Even if it was not a full reversal WISHART prevailed in that they won a new, or "further hearing."

The second panels mandate also reversed the award of visitation, but for reason other than that the trial court abused its jurisdiction in awarding visitaition to the Wisharts with no evidence being heard as to the childs best interests as stated in Leslies brief.

LESLIE did mislead the panel by arguing against grandparent visitation after Section 61.13(2)(b)c., Fla. Stat. (1985) was passed granting such visitation when she cited cases before that date.

The "further hearing" resumed and concluded with Judge Evans' "ORDER GRANTING MOTION FOR DISMISSAL OF THE WISHARTS COUNTERCLAIM FOR CUSTODY OF TIFFANY BATES" dated December 17, 1987 pursuant to DCA Case No. 85-1128 which reaffirmed that Leslie is a fit and proper parent with custody of Tiffany and supercedes prior orders.

WISHART had not seen TIFFANY since Saturday the 18th day of October 1986, and rarely before that.

That in spite of their right to restoration to their guardianship status, and even in spite of the lawful visitation begun by Judge Menendez and enlarged by Judge Hodges, and without any more contact than that, there was no reason to hold the trial.

After it was Judge Vernon Evans who had denied the WISHARTS contemptmotions earlier and thus emboldened LESLIE to disobey even the "Final Judgement" by cutting off the WISHARTS with impunity.

In addition, Judge Evans presumed the validity of the "Final Judgement" which presumed LESLIE to have been found fit, and placing the burden on the WISHARTS to show changed circumstances since the Menendez trial which they could not do.

Add to that the presumption that the trial was based on the lie the WISHARTS were accused of telling the 2d DCA, which was stated as the grounds for the involuntary dismissal (FSC-AV: pp. 925-927) until WISHART filed their motion for rehearing (FSC- AV: pp. 928-941) wherein they showed the true reason why Judge Menendez' "Judgement" had been reversed (FSC-AIII: p. 588 Question III), which caused Judge Evans to recant as to his reason for the involuntary dismissal but not from granting it.

It is sort of like shooting fish in a barrel.

Simultaneous with the conclusion of the five days of further hearing proceedings before Judge Evans, the Wisharts invoked the jurisdiction of the Florida Supreme Court on DCA Case No. 86-2408.

The Wisharts motion for rehearing of Judge Evans order was denied.

The Wisharts filed a Notice of Appeal on the results of the "further hearing" they obtained in DCA Case No. 85-1128.

They neither filed a brief nor a motion to stay with the appellate court, and subsequently, their appeal, DCA Case No. 88-772, was dismissed.

To this point LESLIE was doing all right, but where she says the WISHART did not file a motion to stay in the DCA # 88-772 she is in error.

WISHART filed their motion directed against that very case in the Florida Supreme Court case No. 70,-371, on the presumption that the Supreme Court had taken the case to correct the errors and excesses manifested in this case, one of which would have been the restoration to their status they were entitled after they reversed the final judgement.

The motion, of the 16th of May 1988 was entitled:

Motion to Stay Proceedings and to Strike and Reverse An Order Issued Contrary to Law and Procedure" (FSC-MO[10]: pp. 1-7).

The Wisharts presented no Federal question to the Florida Supreme Court in their appeal of Bates v. Wishart, 512 So.2d 977 (Fla 2d DCA 19-87), and the court addressed the only substantial question presented.

WISHART had not seen TIFFANY since Saturday the 18th day of October 1986, and rarely before that.

That in spite of their right to restoration to their guardianship status, and even in spite of the lawful visitation begun by Judge Menendez and enlarged by Judge Hodges, and without any more contact than that, there was no reason to hold the trial.

After it was Judge Vernon Evans who had denied the WISHARTS contemptmotions earlier and thus emboldened LESLIE to disobey even the "Final Judgement" by cutting off the WISHARTS with impunity.

In addition, Judge Evans presumed the validity of the "Final Judgement" which presumed LESLIE to have been found fit, and placing the burden on the WISHARTS to show changed circumstances since the Menendez trial which they could not do.

Add to that the presumption that the trial was based on the lie the WISHARTS were accused of telling the 2d DCA, which was stated as the grounds for the involuntary dismissal (FSC-AV: pp. 925-927) until WISHART filed their motion for rehearing (FSC- AV: pp. 928-941) wherein they showed the true reason why Judge Menendez' "Judgement" had been reversed (FSC-AIII: p. 588 Question III), which caused Judge Evans to recant as to his reason for the involuntary dismissal but not from granting it.

It is sort of like shooting fish in a barrel.

Simultaneous with the conclusion of the five days of further hearing proceedings before Judge Evans, the Wisharts invoked the jurisdiction of the Florida Supreme Court on DCA Case No. 86-2408.

The Wisharts motion for rehearing of Judge Evans order was denied.

The Wisharts filed a Notice of Appeal on the results of the "further hearing" they obtained in DCA Case No. 85-1128.

They neither filed a brief nor a motion to stay with the appellate court, and subsequently, their appeal, DCA Case No. 88-772, was dismissed.

To this point LESLIE was doing all right, but where she says the WISHART did not file a motion to stay in the DCA # 88-772 she is in error.

WISHART filed their motion directed against that very case in the Florida Supreme Court case No. 70,-371, on the presumption that the Supreme Court had taken the case to correct the errors and excesses manifested in this case, one of which would have been the restoration to their status they were entitled after they reversed the final judgement.

The motion, of the 16th of May 1988 was entitled:

Motion to Stay Proceedings and to Strike and Reverse An Order Issued Contrary to Law and Procedure" (FSC-MO[10]: pp. 1-7).

The Wisharts presented no Federal question to the Florida Supreme Court in their appeal of Bates v. Wishart, 51? So.2d 977 (Fla 2d DCA 19-87), and the court addressed the only substantial question presented.

There was one unique question of first impression raised, in the middle of the process, namely when trial and appellate judges conspire to swindle a perpon of a right gained by a successful appeal by the perversion of the plain language of the prior opinion into a lie, which was eventually blamed on the Wisharts since the record refuted the lie, then should CHARLES invoke his Constitutional Officer status under Art. V § 3.(b) (3), on the ground that it is the duty of an officer of the court to attack when the judges stray from their jurisdiction as is necessary to prohibit such practices by all means at hand.

Of course the most important issue, raised before Judge Menendez and thereafter was the demand that the Courts adhere to the Christian Ethic, and that includes their compelling the social services who make the reports to adhere to those values in their reporting and in the care and raising of children under their supervision, for with nospecific system of ethics underlying our laws there are no laws worthy of that name, for who can tell what is right and wrong.

To the degree that it has been raised as for example in Judge Menendez' "Pretrial Conference Order" (FSC-AII: pp. 244-247) wherein the WISHARTS are calling for enforcement of the clean hands doctrine, which was not being used, and by asking the Court to take judicial notice of the *State ex. rel. Singleton v. Woodruff, Id.*, at 2, the most clearly stated reasoning for the requirement to have a specific system of ethics underlying the law, and that ours is happily the Christian system.

This point with the appropriate cites have been raised thereafter, with the three treaties being a part of WISHARTS "Initial brief", 2d DCA Case No. 1128 (FSC-AIII: p. 590) and along with such other cases as

the *Singleton*, case, *King v. Daniel*, 11 Fla. 91, 99 (18-64-5) (FSC-AIII: pp. 484); *Randolph v. Randolph*, 1 So. 2d 480, 481 (Fla. 1941); and the Constitutional provisions as well regarding freedom of religion, etc..

The mandate of the Florida Supreme Court did not reverse custody, but only remanded the issue of whether the trial court abused its jurisdiction in determining that awarding visitation to the Wisharts was in the childs best interests.

The Wisharts have filed a motion for a rehearing of the dismissal of DCA Case No. 88-772.

Currently, the Appellate Court has the mandate in Bates v. Wishart, 512 So. 2d DCA 977 (Fla. 2d DCA 1987) DCA 86-2408) (FSC No. 71, 370) under consideration for re-wording and also the Wisharts motion for re-hearing of the dismissal of DCA No. 88-772); snd having denied Tiffany and Leslie their "rights" for six years through unmerited litigation, the Wisharts have invoked the jurisdiction of this Honorable Court on the grounds that "they" have been denied "their" rights granted by the treaty of Amity, the Paris Peace Treaty, and the Treaty of Friendship and General Relations.

The paramount issue of Tiffanys welfare and best interests must cease being sacrificed for the Wisharts "rights".

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WISHARTS' motion for rehearing in the 88,772 appeal was denied.

The only other worthy comment is that from the WISHARTS' point, they carried the responsibilities abandoned by LESLIE who only wanted her rights without her responsibilities.

As part of TIFFANY'S best "interests" is that she loves the WISHARTS and weants to be with them, for there is much of BOBBIE in her.

The mandate of the Florida Supreme Court did not reverse custody, but only remanded the issue of whether the trial court abused its jurisdiction in determining that awarding visitation to the Wisharts was in the childs best interests.

The Wisharts have filed a motion for a rehearing of the dismissal of DCA Case No. 88-772.

Currently,the Appellate Court has the mandate in Bates v. Wishart, 512 So. 2d DCA 977 (Fla. 2d DCA 1987) DCA 86-2408) (FSC No. 71, 370) under consideration for re-wording and also the Wisharts motion for re-hearing of the dismissal of DCA No. 88-772); and having denied Tiffany and Leslie their "rights" for six years through unmerited litigation, the Wisharts have invoked the jurisdiction of this Honorable Court on the grounds that "they" have been denied "their" rights granted by the treaty of Amity, the Paris Peace Treaty, and the Treaty of Friendship and General Relations.

The paramount issue of Tiffanys welfare and best interests must cease being sacrificed for the Wisharts "rights".

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WISHART has the "right" to expect the law to be followed, and for the truth to come out. and for society to not only give lip service but heart service as well to our values before it is too late.

I. THE COURT LACKS JURISDICTION UNDER 28 U,S.C. 1257(1) BECAUSE A FEDERAL LAW WAS NOT DRAWN INTO QUESTION AND THE DECISION WAS NOT AGAINST ITS VALIDITY

28 U.S.C. 1257(1) provides for appeal to the United States Supreme Court when the validity of a federal law is drawn into question and the decision is against its validity.

No federal law was drawn into question below, and there has been no decision against the validity of a federal law.

The Wisharts freedom of religion has not been denied, and their "rights" are not at issue.

Therefore, Appellee moves the Court to dismiss his appeal for lack of jurisdiction under 28 U.S.C. 1257(1).

o

As before these rights look far more like a responsibility, for the basic values of our society are at stake, everyone knows what is going on in out courts, but no one would take the burden before, or as the WISHARTS have repeatedly heard, face the reality, it is wrong but there is nothing you can do about it.

WISHART, and CHARLES has a different reality, and does not wish to tell his clients that nothing can be done when a childs welfare is at stake.

Of what value a law license that does not work.

II. THE COURT LACKS JURISDICTION BECAUSE THIS DECISION ONLY AFFECTS THE IMMEDIATE LITIGANTS

This litigation affects only Tiffany and Leslie, and is of no concern to the general public.

The flagrant abuse of the judicial system by Charles Wishart, the attorney, the officer of the court, the constitutional officer must not be allowed to set a precedent that could affect the general public.

The Appellants abuse of the judicial system, violation of the Florida Bar Disciplinary Rules, the Clean Hands Doctrine, state and federal laws, and lack of Christian Ethical Values, have only affected Tiffany and Leslie.

The cases set forth by Appellants are not re-related to the litigation of this appeal.

Justice in this case has been overdone for the Wisharts and delayed and denied for Tiffany and Leslie.

Leslie faced the Wisharts before Judge Menendez in the final hearing in 1984, and again before Judge Evans in 1987, and should not be subjected to the further delay and expense of a third trial in 1989.

Therefore, this Court should dismiss this appeal as it only affects the immediate litigants and does not affect the general public, and the paramount issue of custody and/or visitation is moot.

WISHARTS' Jurisdictional brief filed with the Flor-Florida Supreme Court contained a plea to the court to reinstate the law and it's underlying values and not send them back down the hill into a system that practices neither.

III. THIS DECISION DOES NOT PRESENT A SUBSTANTIAL FEDERAL QUESTION AND DOES NOT NEED FURTHER ARGUMENT

The decision of the court below remanding a non-final order to the Appellate Court to re-word their mandate reversing visitation that was granted that was not in Tiffanys best interest does not raise a substantial Federal Question and needs no further argument.

The Wisharts personal opinion of the problems with, and remedies for, the judicial system do not constitute a substantial federal question, therefore, this court should dismiss this appeal.

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The courts have a standard "cookie cutter" solution to divorce and child custody.

Mama gets the baby, and there is no defense to divorce, with the Tampa Bay area having a high rate, and LESLIE would have us stick our head in the sand.

CONCLUSION

For the reasons set forth above, it is respectfully submitted that the within appeal should be dismissed due to lack of jurisdiction under 28 U.S.C. 1257(1), and/or because the issue of this appeal only affects the immediate litigants and does not affect the general public, and/or be-

cause this appeal does not present a substantial Federal question and needs no furthur (sic) argument, and most importantly, continued litigation is detrimental to Tiffanys best interest snd must cease.

WISHARTS CONCLUSION

Clearly the system is wrong or it would not be so defensive, and violative of the basis principles of due process of law.

Thereis a grave problem, and all this case proves is that most people are turned away without justice.

WISHART would desire to regain authority over TIFFANY, but to also leave a precedent, that there is something you can do when the courts lose their way, become tyrants, and build fortresses for court houses because they do not trust the citizens.

Respectfully submitted,

Bobbie S. Wishart

BOBBIE SUE WISHART

Charles F. Wishart

CHARLES F. WISHART
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APPENDIX

CITATION FORMATS

Citations are to the records under the Appellate Court and case they were initially filed in.

PREFIXES:

Each Court, including the trial court(s) shall have a prefix assigned to it, namely:

The 13th Judicial Circuit, In and For Hillsborough County, Tampa Division, Bates v. Wishart), Case No. 83- 7250, carries the prefix (CC- . . .).

The Florida Second District Court of Appeal, Wishart v. Bates, Case No. 85-1128, shall carry the prefix (DC1- . . .).

The opinion rendered is **Wishart v. Bates,** 487 So.2d 342 (Fla. 2d DCA 1986).

The Florida Second District Court of Appeal, Bates v. Wishart, Case No. 86-2408, shall carry the prefix (DC2- . . .).

The opinion rendered is **Bates v. Wishart,** 512 So.2d 977 (Fla. 2d DCA 1987).

The Florida Second District Court of Appeal, Wishart v. Bates, Case No. 88-772, shall carry the prefix (DC3- . . .).

No record was prepared pending a motion to the Florida Supreme Court to stay the appeal.

The Florida Supreme Court took no action on the motion and a subsequent petition for stay was denied and The District Court of Appeal dismissed

the appeal for lack of prosecution on the 6th day of February 1989, subject to appeal, or stay.

The Supreme Court of the State of Florida, The Florida Bar v. Wishart, Case No. 70,584, on appeal to The Supreme Court of the State of Florida, shall carry the prefix (FBA- . . .).

The Florida Bar Board of Governors recommended a 3 year suspension and not disbarment which CHARLES categorically rejected.

CHARLES has always opted for disbarment if his license to practice law could not compel the courts to follow the law.

No opinion had been rendered.

The Supreme Court of the State of Florida, Wishart v. Bates, Case No. 71,370, on appeal to The Supreme Court of the United States and on remand to the Florida Second District Court of Appeal Case No. 86-2408, shall carry the prefix (FSC- . . .).

The opinion rendered is **Wishart v. Bates,** 531 So.2d 955 (Fla. Sept 8, 1988).

The Supreme Court of the United States, Case No. 88-1348, shall carry the prefix (US- . . .)

No opinion has been rendered.

SUFFIXES:

Not every document making up the "Record on appeal" is in the Appellate Court it was initially prepared for and filed in, for in some cases parts of the

records have been returned to the trial court (CC), of lower appellate courts, while parts are retained in the original appellate courts.

A suffix shall be attached to reflect where the "Record on Appeal" is at present using the prefixes above as suffixes (CC, DC1, DC2, etc..)

Example: (DC1-RA: pp. 1-4)(CC) shows LESLIE'S "Petition for Dissolution fo Marriage", pages 1-4, filed on May 24, 1983, in the **Bates v. Wishart,** 73-7250, case, and made a part of the "Record of Appeal" in the (DC1) appeal of Judge Menendez' Fi-"nal Judgement of Dissolution of Marriage" (Which **Wishart v. Bates,** 487 So.2d 342 (Fla. 2d DCA 1986) reversed) has been returned to the circuit court (CC) files.

CITES TO THE RECORDS ON APPEAL:

Basic pleadings such as "Jurisdiction Brief, "Supplemental Appendix to Jurisdictional Brief", Etc., shall be cited, as (US-JB: p. 1) and (US-SA: p. A-1).

However, to be able to address "miscellaneous pleading" which do not lend themselves to such cryptic notations as "JB" or "SA", as for example the motion that was filed in both the (FSC) Case No. 71,370, and the (FBA) Case No. 70,584 simultaneously, with a certificate of mailing of 24 August 1988 more detail is required to identify the document cited.

Therefore the pleadings, are listed chronologically and then numerically, under each court name and case number so that the pleadings may be cited as above, with the additional of the bracketed number to assist finding the pleading (or exhibit) from these lists, as

for example (FSC-[11]: pp. 1-4) and (FBA- [11]: pp. 1-4), which cites reference:

11. 24 August 1988

WISHARTS' "Motion To Take Judicial Notice, To Stay, Join, or Enjoin The Above Styled Causes So That The Opinions Are Not Conflicting And So The Two Mutually Exclusive Cases May be Fully Developed" (FSC-[11]: pp. 1-4)

and,

8. 24 August 1988

WISHARTS' "Motion To Take Judicial Notice, To Stay, Join, or Enjoin The Above Styled Causes So That The Opinions Are Not Conflicting And So The Two Mutually Exclusive Cases May be Fully Developed" (FBA-[8]: pp. 1-4)

The bracketed number then is sufficient to identify the document under the appropriate court by reference to this appendix starting with the court citation.

APPENDICES:

Appendices, which contain their own indexes shall be cited to their own pages as for example:

(FSC-AI[nn]: p. 34) reflects the **Wishart v. Bates**, Case No. 70,371, the Civil Discretionary Review Petition to the Florida Supreme Court, Volume I of WISHARTS Appendix at page 34, WISHARTS' "Affadavit of Charles F. Wishart", dated 3 November 1983.

The cites to the record then follow:

**IN THE THE 13TH JUDICIAL CIRCUIT,
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA
TAMPA DIVISION**

The index in the circuit can be handily divided into two portions, namely that through the appeal of Judge Menendez' "Final Judgement of Dissolution of Marriage" which was reversed in **Wishart v. Bates, et al.**, 487 So.2d 352 (Fla. 2d DCA 1986), the mandate is- sued May 16, 1986, cited from (FSC-AIV: pp. 737-751) followed by the name of the document cited.

By this device we may itilize the "Index to the Record on Appeal" from Cir. Ct. Case No. 83-7250, App. No. 85-1128; **Wishart v. Bates** since the index is incorporated into both of the 5 volume appendices on file in the Florida Supreme Court, namely **The Florida Bar v. Wishart,** Case No. 70,586 and **Wishart v. Bates,** Case No. 71,370 on pages 737 to 751.

That index shall be the basis for citing documents that were a part of the record but were not previously needed to answer issues now raised.

Other matters not in an index, or on file in other courts shall be cited as (CC) with the name and date of the document following.

THE FLORIDA DISTRICT COURT OF APPEAL
SECOND DISTRICT, LAKELAND, FLORIDA
Wishart v. Bates, Case No. 85-1128

Where the document is in WISHARTS' appendices (FSC-A: Vol. I pg. 1, to Vol. 5 pg. 987) that cite will be used with an appropirate suffix to show where the document can be located.

The format shall be (FSC-AVI: p. 1)

Cites shall be to the "Index to the Record on Appeal" for Cir. Ct. Case No. 83-7250, App. No. 85-1128 **Wishart v. Bates, et al.,** 487 So.2d 352 (Fla. 2d DCA 1986) when the appendices do not contain the document which had been a part of the initial appeal.

The format shall then be (FSC-AIV: p. 743) "Transcript of Testimony and Proceedings Taken Before the Honorable Ralph Steinberg on December 20, 1983" and (Filed 24 Jan. 1984)

1. **10 October 1985:**

Excerpts from WISHARTS' "Initial Brief" (FSC-AIII: pp. 586-594)

: WISHARTS' "Initial Brief" (DC1)

2. **2 April 1986:**

Wishart v. Bates, Opinion. (FSC-AII: p. 222)(DC1)

3. **11 March 1986:**

LESLIE'S "Motion For Rehearing" (DC1)

4. 1 May 1986:

Motion for rehearing denied (FSC: AII: p. 220) (DC1)

5. 16 May 1986:

Mandate (FSC-AII: p. 221)(DC1)

6. 9 June 1986:

WISHARTS' "Motion to Enforce Mandate" (FSC-AII: p. 221)(DC1)

THE FLORIDA DISTRICT COURT OF APPEAL
SECOND DISTRICT, LAKELAND, FLORIDA
Wishart v. Bates, Case No. 86-2408

Where the document is in WISHARTS' appendices (FSC-A: Vol. I pg. 1, to Vol. 5 pg. 987) that cite will be used with an appropirate suffix to show where the document can be located.

The format shall be (FSC-AVI: p. 1)

Where the document is not in WISHARTS' appendix Cites shall be to the "Index to the Record on Appeal" for Cir. Ct. Case No. 83-7250, App. No. 85-1128 **Wishart v. Bates, et al.,** 487 So.2d 352 (Fla. 2d DCA 1986).

The format shall then be (FSC-AIV: p. 743) "Transcript of Testimony and Proceedings Taken Before the Honorable Ralph Steinberg on December 20, 1983" and (Filed 24 Jan. 1984)

1. **13 November 1986:**

   Order requiring WISHART to file "Cross-Appellant's Brief" before December 15, 1986 (FSC-AV: p. 978)

2. **15 December 1986:**

   WISHARTS' "Cross-Appellants Initial Brief" (FSC-AIV: pp. 777-795)

   WISHARTS' "Index to Cross Appellants Initial Brief" (FSC-AIV: pp. 796-798)

3. **30 December 1986:**

LESLIE'S "Motion for Extension of Time to File Initial Brief (FSC-AIV: pp. 799-800)

4. **12 January 1987:**

Order Granting LESLIE'S "Motion to Extend Time" (FSC-AV: p. 801)

5. **21 January 1987:**

Leslie's "Initial Brief" (FSC-AV: pp. 802-821)

ATTACHED EXHIBIT: Judge Taylor's "Order Granting Motion for Appellate Costs; . . and Order Denying Amended Motion for Order to Enforce Primary Residency" dated 22 August 1986 (FSC-AII: pp. 223-225)

6. **9 February 1987:**

"WISHARTS' Motion for Rehearing and Denial of LESLIE'S Motion for Extension of Time to File Initial Brief, Motion to Strike Leslie's Brief and Portions of Her Appendix, Motion to Dismiss Leslie's Appeal, and for other relief including Motion for Protective Order Regarding Mailings" (FSC-AV: pp. 822-833)

7. **27 February 1987:**

"Appellees, pro se, having filed a motion for rehearing and denial of Leslie's Motion for extension of time to file initial brief, upon consideration, it is

ORDERED that the motion is hereby denied See **Dubowitz v. Century Village East, Inc.,** 381 So.2d 252 (Fla. 4th DCA 1979) (DC2)

8. **7 August 1987:**

Bates v. Wishart, 512 So.2d 977 (Fla. 2d DCA 1987) (FSC-AII: pp. 226-229)

9. **24 August 1987:**

WISHARTS' "Motion For Rehearing and Clarification" (FSC-AII: pp. 226-229)

10. **8 September 1987:**

LESLIE'S "Appellant's Response to Appellee's 'Motion for Rehearing and Clarification'" (DC2)

11. **23 September 1987:**

Appellee/Cross Appellants, having filed a motion for rehearing and clarification in the above-styled case, upon consideration, it is

Ordered that said motion is hereby denied. (FSC-AII: p. 231)

NOTE: WISHART was denied the right to answer LESLIE'S brief. Some of the cause was they never received the amended Appellee's Brief in the mail.

THE FLORIDA DISTRICT COURT OF APPEAL
SECOND DISTRICT, LAKELAND, FLORIDA
Wishart v. Bates, Case No. 88-772

The "Index to the Record on Appeal" for Cir. Ct. Case No. 83-7250, App. No. 88-772, **Wishart v. Bates,** was never prepared, but without fault.

WISHARTS' instructions to the Reporter were too cumbersome and the reporter refused to follow them.

WISHART moved the Florida Supreme Court to stay the appeal proceedings (FSC-[10]: pp. 1-7) but that court did not respond in any fashion other than to remand the case to the Second District Court of Appeal, Case No. 86-2408.

Motions to the Second District Court of Appeal, Case No. 86-2408 were denied, the case dismissed for want of prosecution, in spite of the fact WISHART was waiting on the Supreme Court to reverse the opinion, on the Supreme Court to dispose of their motion to stay, and finally on the Second District Court of Appeal to grant a stay pending appeal to the Supreme Court of the United States which was denied.

CITATIONS:

Where the document is in WISHARTS' appendices (FSC-A: Vol. I pg. 1, to Vol. 5 pg. 987) that cite will be used with an appropirate suffix to show where the document can be located, (FSC-AVI: p. 1)(DC3); but where the document is not in WISHARTS' appendix cites shall be to the "Index to the Record on Appeal" for Cir. Ct. Case No. 83-7250, **Wishart v. Bates, App. No. 85-1128, or directly to the circuit court file.**

SUPREME COURT OF THE STATE OF FLORIDA
The Florida Bar v. Charles F. Wishart
Case No. 70,584 On Appeal

APPENDIX:

CHARLES' "Charles' Appendix" (5 Volumes I-IV):

1. 14 March 1988

(FBA-AI: pp. 1-200)

(FBA-AII: pp. 201-407)

(FBA-AIII: pp. 408-601)

(FBA-AIV: pp. 602-800)

2. 10 March 1988

The Florida Bar's "Exhibits 1-23" (FBA-Ex[2]: Ex. 1-23)

3. 25 March 1988

CHARLES' "Charles' Appendix" (Volumes V):

(FBA-AV: pp. 801-797)

TRANSCRIPTS:

Transcripts of Trial before the Honorable William A. Norris, Jr, Referee:

4. 2 March 1988

(FBA-TR1[4]: pp. 1-58)

5. 10 March 1988

(FBA-TRI/II[5] pp. 1-165)

(FBA-TRII/II[5] pp. 166-324)

6. 25 March 1988

(FBA-TRIII[6] pp. 1-151)

(FBA-TRIV[6] pp. 152-299)

7. 4 April 1988

(FBA-TRV[7] pp. 1-194)

Note: WISHARTS' appendices in the Civil suit now on appeal in the Supreme Court are with few exceptions identical to CHARLES' appendices above.

8. 24 August 1988

WISHARTS' "Motion To Take Judicial Notice, To Stay, Join, or Enjoin The Above Styled Causes S That The Opinions Are Not Conflicting And So The Two Mutually Exclusive Cases May be Fully Developed" (FBA-[8] pp. 1-4)

9. 9 September 1988

The Florida Bar's "Initial Brief" (FBA-IB[9] pp. i-iii, 1-15)

10. 14 November 1988

CHARLES' "Answer and Cross-Appellant Brief" (FBA-AB[10] pp. i-viii, 1-65)

11. **23 November 1988**

The Florida Bar's "Complaintant's Answer and Reply Brief" (FBA-RB[11]: pp. i-iii, 1-3)

12. **2 December 1988**

CHARLES' "Motion to Strike and to Dismiss Complaintant's Answer and Reply Brief and for Other Sanctions" (FBA-MS[12]: pp. 1-6)

SUPREME COURT OF THE STATE OF FLORIDA
Wishart v. Bates, Case No. 71,370;

on appeal to
The Supreme Court of the United States
Case No 88-1340;

and, on Remand pursuant to
Bates v. Wishart, 531 So.2d 955 to
The Florida Second District Court of Appeal
Case No. 86-2408

1. **2 November 1987**

WISHARTS' "Jurisdictional Brief" (FSC-JB[1] pp. I-IV, 1-95)

2. **2 NOVEMBER 1987**

WISHARTS' "Appendix to Jurisdictional Brief" (FSC-AB[2] pp. i-viii, 1-65)

3. **10 December 1987**

LESLIE'S "Appellee's Response to Appellees (sic) Notice to Invoke Discretionary Jurisdiction" (FSC-R/JB[3] pp. i-ii, 1-8)

4. **15 March 1988**

WISHARTS' "Petitioners Brief", (FSC-PB[4] pp. i-vi, 1-29)

5. **15 March 1988**

CHARLES' 5 Volume appendix entitled "Petitioners Brief":

(FSC-AI[5] pp. 1-200)

(FSC-AII[5] pp. 201-407)

(FSC-AIII[5] pp. 408-601)

(FSC-AIV[5] pp. 602-800)

(FSC-AV[5] pp. 801-979)

6. 19 March 1988

LESLIE'S "Motion to Dismiss" (FSC-MD[6] pp. 1-2)

7. 8 April 1988

LESLIE'S "Respondent's Brief", has been enfolded into WISHARTS' "Petitioners Reply Brief" in the same format as this reply brief, and will be cited to the reply brief. (FSC-RB[7] pp. i, 1-29)

8. 5 May 1988

WISHARTS' "Petitioners Reply Brief", (FSC-RB[8] pp. i, 1-59).

9. 5 May 1988

WISHARTS' "Supplemental Appendix for (WISHARTS') Reply Brief", (FSC:SA[9] pp. i, 1-59).

10. 16 May 1988

WISHARTS' "Motion to Stay Proceedings and to Strike and Reverse An Order Issued Contrary to Law and Procedure" (FSC-MO[10] pp. 1-7)

11. 24 August 1988

WISHARTS' "Motion To Take Judicial Notice, To Stay, Join, or Enjoin The Above Styled Causes So That The Opinions Are Not Conflicting And So The Two Mutually Exclusive Cases May be Fully Developed" (FSC-[11] pp. 1-4)

12. 31 August 1988

"PETITIONERS' Motion To Take Judicial Notice, To Stay, Join, or Enjoin The Above Styled Cases is denied." (FSC-[12] p. 1)

13. 8 September 1988

Bates v. Wishart, 531 So.2d 955 (Fla. Sept. 8, 1988, reh. den. Nov. 8, 1988) (FSC-OP[13] pp. 1-4)

14. 21 September 1988

WISHARTS' "Motion for Rehearing and Clarification" ((FSC-MO[14] pp. 1-12)

15. 11 October 1988

LESLIE'S "Response to Motion For Rehearing and Clarification" (FSC-R/REH[15] pp. 1-10)

16. 24 August 1988

"Upon consideration of the Motion for Rehearing and Clarification filed in the above cause by petitiones, and response thereto,

IT IS ORDERED that said Motion be and the same is hereby denied. (FSC-[16 [: p. 1)

17. 8 September, 8 November 1988

"Mandate - The attached opinion was rendered on September 8, 1988". (FSC-MAN[17]: p. 1)

Bates v. Wishart, 531 So.2d 955 (Fla. Sept. 8, 1988, reh. den. Nov. 8, 1988) (FSC-OP[13]: pp. 1-4)

UNITED STATES SUPREME COURT
Wishart v. Bates, Case No. 88-1340

Appeal from The Supreme Court of the State of Florida Case No. 71,370. The opinion rendered is **Wishart v. Bates,** 531 So.2d 955 (Fla. Sept 8, 1988).

PLEADINGS:

1. **3 February 1989**

   WISHARTS' "Notice of Appeal" (US-NA[1]: p. 1)

2. **3 February 1989**

   WISHARTS' "Jurisdictional Brief" (US-JB[2]: pp. i-ix, 1-30, and A-1 - A-11)

3. **22 February 1989**

   WISHARTS' "Supplemental Appendix to Jurisdictional Brief" (US-SA[3]: pp. A-12 - A-70)

4. **8 March 1989**

   LESLIE'S "Motion to D miss" (US-L/MD[4]: pp. i-iv, 1-14, and A1-A5)

5. **nn March 1989**

   WISHARTS' "Reply Brief" (US-RB[5]: pp. i-nn, 1-nn, and A-1 to A-nn)

IN THE CIRCUIT COURT
OF THE THIRTEENTH JUDICIAL CIRCUIT,
IN AND FOR HILLSBOROUGH COUNTY
JUVENILE AND DOMESTIC RELATIONS DIVISION

Date Novbember 27, 1984

TO: Judge Manuel Menendez, Circuit Judge
Family Law Division

From: Carole S. Priede, Sr. Counselor, Juvenile Court

. . . . (Pages 571 to the bottom of page 575)

EVALUATION AND RECOMMENDATION

. . . It is this counselor's impression that the best interest of the child is served by placing the child with a natural parent unless it becomes apparent that the natural parent is a detriment to the child. Leslie Bates admits that she has stayed at the trailer of Larry Boggs and also that he has stayed in her trailer. Leslie Bates admittedly dated a man who was later convicted of sexual assault, but states she no longer has contact with Ray Yarborough. The Counselor assumes that Leslie Bates' mother is not married to Chuck Utterback since there has been no marriage license produced to verify the marriage. These facts alone are not enough, in the opinion of the counselor, to warrant Leslie Bates losing custody of her daughter. What is of major importance is the allegation of medical neglect. If the court can determine that the medical information produced substantiates medical neglect by the mother and that conclusion is not based on only what the Wisharts have presented to the Doctors, then the counsellor would recommend that the Wisharts retain custody of Tiffany with the mother having visitation rights. If the medical neglect

cannot be substantiated, the counselor would recommend that Leslie Bates be awarded custody of Tiffany with visitation rights to the Wisharts and Randy Bates. (Emphasis added)